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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,130	07/08/2003	Dennis R. Zander	87054.000006	8068
23387	7590	03/20/2006		
Stephen B. Salai, Esq. Harter, Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, NY 14604-2711			EXAMINER MCCARRY JR, ROBERT J	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lane et al (US 6,025,789) in view of Quinn et al (US 5,492,290) further in view of Jenks (US 3,163,125).

Lane et al discloses a model train sensor and signal comprised of a UHF receiver 10, which detects a remote signal from a train and determines the proximity of the train. The receiver sends the signal to a microcontroller 30, which monitors the time of the signal, received by the train and then activates a visual and audible signal. When a signal is transmitted it is in the form of a yellow signal 44 showing that a signal is being received and monitored for a predetermined length of time set by the microcontroller 30. When the predetermined time is met the microcontroller interprets a train is in the controlled path and lights a red signal 48, which shows other trains in the system to stop. When the microcontroller determines the train has passed the red signal is deactivated and a green signal 52 is then activated, showing other trains in the system that it is safe to precede. The flowchart of figure 2 shows the step by step functioning of the system.

Lane et al discloses a proximity detector and signaling system as described above. However, Lane et al does not specifically state that the system is used with a model train. Quinn et al discloses a proximity control system for a model train system. It would have been obvious to one of ordinary skill in the art to have used the reference of Quinn et al as a teaching to show that proximity sensing systems, like that of Lane et al, can be used in model train systems.

Lane et al discloses a proximity detector and signaling system as described above. However, Lane et al does not disclose the use of a semaphore as a type of signal. Jenks discloses a semaphore arm 11 having red, yellow and green filters mounted on opening 13, 14 and 15 respectively and pass over a light when the arm of the semaphore moves. It would have been obvious to one of ordinary skill in the art to use a semaphore as a type of signal to show that a part of the train system is empty and safe for a vehicle to proceed or to show that the system is full and stop the vehicle.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lane et al (US 6,025,789) in view of Bonanno (US 2,925,584).

Lane et al discloses a proximity detector and signaling system as described above. However, Lane et al does not disclose the use of a swinging banjo as a type of signal for the vehicles. Bonanno discloses a swinging banjo signal to signal for trains to precede or stop at a certain point on a train system. When a train passes and energizes the circuit of the banjo signal the signal will swing to show that it is unsafe for another train to proceed. When there is no train to energize the circuit the banjo will sit stationary to show that it is safe to proceed through the system. It would have been

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obvious to one of ordinary skill in the art to use a swinging banjo as a type of signal for trains to convey a stop signal or a proceed signal.

Response to Arguments

Applicant's arguments filed 01/03/2006 have been fully considered but they are not persuasive. Applicant argues that the prior art does not disclose the features in the cited art. The prior art is in fact drawn to a full size train; however, with the advancements in realism related with model trains both full size and model trains share a substantial amount of similarities when operating. The system of Lane et al could be used as a teaching for a system for a model train. While sized and scaled differently it would be used in the same manner. Applicant feels that the combination of the prior art disclosing various types of signals to be "whimsical". The Examiner has not relied on the size of the devices and as stated above, with the similarities between full-size and model trains the components would be sized to establish an adequate signal for the full size or model train. It is well known in the art that semaphores and swinging banjo type signals have been used for full size trains and for model trains, with both being operated in the same manner.

Allowable Subject Matter

Claims 10-27 are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. McCarry, Jr. whose telephone number is (571) 272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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Robert J. McCarry, Jr.
Examiner
Art Unit 3617

RJM
October 5, 2005



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